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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Human rights and unilateral coercive measures

Report of the Secretary-General

Summary

The present report is submitted in accordance with General Assembly resolution 61/170 of 19 December 2006, in which the Assembly requested the Secretary-General to bring that resolution to the attention of all Member States, to continue to collect their views and information on the implications and negative effects of unilateral coercive measures on their populations and to submit an analytical report thereon to the Assembly at its sixty-second session, highlighting the practical and preventive measures in that respect. The report summarizes the replies received from the Governments of Argentina, Bosnia and Herzegovina, Cuba, Ecuador, the Libyan Arab Jamahiriya, Mexico, Serbia and Suriname in response to a request for information sent pursuant to the resolution. The replies from Costa Rica and the Syrian Arab Republic, submitted in response to both Assembly resolution 61/170 and Human Rights Council decision 4/103, are included in the report of the Secretary-General on the same issue submitted to the Human Rights Council at its sixth session (A/HRC/6/2).

* A/62/150.

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I. Introduction

1. In paragraph 9 of its resolution 61/170 of 19 December 2006, the General Assembly requested the Secretary-General to bring that resolution to the attention of all Member States, to continue to collect their views and information on the implications and negative effects of unilateral coercive measures on their populations and to submit an analytical report thereon to the Assembly at its sixty-second session, highlighting the practical and preventive measures in that respect.

2. On 12 April 2007, in accordance with the resolution, the Office of the United Nations High Commissioner for Human Rights sent a request for information to all permanent missions to the United Nations bringing the resolution to the attention of Member States and seeking their views. As at 7 August 2007, the Office had received responses from the Governments of Argentina, Bosnia and Herzegovina, Costa Rica, Cuba, Ecuador, the Libyan Arab Jamahiriya, Mexico, Serbia, Suriname and the Syrian Arab Republic. Replies from Costa Rica and the Syrian Arab Republic, submitted in response to both General Assembly resolution 61/170 and Human Rights Council decision 4/103, are included in the report of the Secretary-General submitted to the Human Rights Council at its sixth session (A/HRC/6/2).

II. Information received from Member States

Argentina

[Original: Spanish]
[27 April 2007]

The Government of Argentina indicated that it does not apply unilateral coercive measures in its economic relations with other States, with the exception of obligatory measures emanating from decisions adopted by the Security Council. It noted that, according to the national law No. 24,871, in force since 1997, foreign laws that, directly or indirectly, have as an objective to restrict or impede the free exercise of trade and free movement of capital, goods and persons to the detriment of a certain country or group of countries are not applicable and do not produce any legal effect within the national territory. Accordingly, foreign laws that seek to create extraterritorial legal effects by the imposing of an economic embargo through limiting investments in a particular country with the aim of provoking a change in the form of Government or affecting its right to self-determination are not applicable and devoid of any legal effect in Argentina.

Bosnia and Herzegovina

[Original: English]
[7 August 2007]

1. The Government of Bosnia and Herzegovina recalled that the European Convention for the Protection of Human Rights and Fundamental Freedoms had been incorporated into the Constitution as the highest legal document, that the country is also signatory to numerous international agreements, conventions and

charters pertaining to human rights, and that the country had presented reports before competent United Nations and Council of Europe bodies on several of these international instruments.

2. The Government indicated that, in recognition of its international human rights commitments and general principles of international law, Bosnia and Herzegovina refrains from using unilateral coercive measures that would cause damage to the full enjoyment of human rights and fundamental freedoms.

Cuba

[Original: Spanish]
[13 July 2007]

1. The Government of Cuba indicated that it assigns particular importance to this question, as Cuba is one of hundreds of developing countries the populations of which are victims of unilateral coercive measures imposed by developed countries. It recalled that numerous resolutions and decisions of the General Assembly, of the former Commission on Human Rights and of international summits and conferences have determined that economic coercive measures are contrary to the provisions of the Charter of the United Nations and to international law. The Government indicated that the main victims are the populations of the countries subject to such measures, in particular the most vulnerable groups, such as children, women, the elderly and persons with disabilities.

2. The Government referred to the economic, trade and financial embargo imposed by the United States of America against Cuba as being the longest and cruellest in the history of humanity as well as constituting an act of genocide, an act of war and an international crime. The Government estimated that, at the end of 2006, the direct economic damage caused by these measures exceeded 89 billion United States dollars.

3. The Government noted that the United States authorities in the period from August 2006 to June 2007 had adopted further economic sanctions against Cuba and intensified its efforts to promote subversion in Cuba. Referring to some of the main measures taken in this period, the Government indicated, inter alia, that the United States Office of Foreign Assets Control had fined a number of companies for exporting goods and services and transferring money to Cuba without a licence; that the office had issued a warning to entities authorized to send remittances to Cuba that the transfer of money in Cuban currency constituted a violation of the economic embargo and would be sanctioned; that a number of organizations had been sanctioned for offering travel to Cuba without a licence; that the United States Department of the Treasury had denied 15 scientists authorization to travel to Cuba for a medical conference; that the United States Government had sent a note to all national Internet providers to prevent these companies from providing their services to Cuba; and that draft bills (S. 876 and HR. 1679) had been introduced to sanction individuals or companies that invested more than US$ 1 million in the Cuban petroleum and gas industry.

4. The Government indicated that sectors such as food, health, education and transport have been among the main targets of these policies. In the period between May 2006 and April 2007, damages caused by the embargo were estimated to have

exceeded US$ 258 million in the food sector, US$ 30 million in the health sector, US$ 870,370 in the education sector, US$ 20,365 million in the cultural sector, US$ 208.8 million in the transport sector and US$ 4.3 million in the housing sector. Moreover, as a consequence of the embargo, access to the Internet has been seriously limited for Cuban students and teachers.

5. The Government indicated that the United States Department of State had made unfounded allegations of human rights violations in Cuba, with the sole aim of fabricating pretexts for military aggression and for the continuation of its policy of hostility and blockade.

6. The Government invoked its sovereign right to denounce the harm that the embargo had caused to its people, to the people of the United States, to third countries and to international law, and indicated that it was now more important than ever for the international community to vigorously pronounce itself to be against such practices.

Ecuador

[Original: Spanish]
[28 June 2007]

1. The Government of Ecuador reaffirmed that it supports the recommendations adopted by the General Assembly and international conferences on the negative consequences of unilateral coercive measures, since such measures gravely affect the development of peoples and their enjoyment of human rights.

2. The Government indicated that it promotes the adoption of administrative or legislative measures by States designed to neutralize the extraterritorial effects of unilateral coercive measures. It also recommended that the effects caused by unilateral coercive measures inhibiting the development of the least favoured countries should be monitored.

3. Finally, the Government affirmed that a relationship of equality, dignity and respect between peoples is conducive to the smooth relations between States in support of the development of all peoples and the respect for human rights in an environment of peace and development.

Libyan Arab Jamahiriya

[Original: Arabic]
[24 July 2007]

1. The Government of the Libyan Arab Jamahiriya recalled that General Assembly resolution 61/170 had urged all States to refrain from adopting or implementing any unilateral coercive measures not in accordance with international law and the Charter of the United Nations that negatively affect the realization of development and violate human rights. The Government noted, in this regard, that the most severe measures were those taken by developed States as a tool with which to put political and economic pressure on developing countries.

2. The Government recalled that the resolution had invited all States to consider adopting administrative or legislative measures, as appropriate, to counteract the

extraterritorial effects of unilateral coercive measures. The Government indicated that this implied that it was the responsibility of all States to establish rules, to be enshrined in the constitution or in basic law, preventing the executive from issuing decisions that would lead to unilateral coercive measures, and to combat the application of such measures by other States.

3. The Government indicated that The Great Green Charter of Human Rights in the Jamahiriyan Era states, in article 16, that nations and people should be able to live in a world free from wars, terrorism and aggression, and affirms, in article 23, the principle of international peace in respect of achieving prosperity in line with the principles underlying resolution 61/170.

Mexico

[Original: Spanish]
[19 July 2007]

1. The Government of Mexico indicated that it supports the adoption of urgent and effective measures to prevent the implementation of economic coercive measures, as an instrument of political or economic pressure, that are not authorized by the competent international bodies and that are in contravention of basic principles of the multilateral trade system or not in conformity with the principles of international law set out in the Charter of the United Nations.

2. The Government recalled that Mexico had repeatedly proclaimed its rejection of the application of unilateral laws or measures of economic embargo against any country, considering that such unilateral measures undermine the sovereignty of States, are contrary to the principles of Mexico's foreign policy, contravene international law and international humanitarian law, and negatively affect the full realization of human rights, including the right to development.

3. The Government also recalled that, in 1996, a law (Ley de Protección al Comercio y la Inversión de Normas Extranjeras que Contravengan el Derecho Internacional) had entered into force that aims at eliminating the negative effects of extraterritorial measures affecting Mexico's trade with other countries. The law, inter alia, encompasses: (a) the prohibition of companies established in Mexico from carrying out acts or committing omissions that could harm Mexican trade or investment in other countries (article 1); (b) the prohibition against providing information requested by foreign tribunals or authorities related to extraterritorial laws of other States that could be damaging to a company (article 2); (c) the prohibiting of national tribunals from recognizing and executing sentences and judicial orders derived from the laws of other countries with extraterritorial effects directed against companies established in Mexico; and (d) the right of individuals or legal entities to seek compensation before federal tribunals for damages caused by legal or administrative measures based upon such laws taken before foreign tribunals or authorities (article 6).

Serbia

[Original: English]
[3 August 2007]

The Government of Serbia recalled that, in accordance with the Universal Declaration of Human Rights and various ratified international conventions in the field of human rights, Serbia does not use any legal, administrative or economic unilateral coercive measures.

Suriname

[Original: English]
[2 August 2007]

The Government of Suriname recalled that it is committed to the purposes and principles enshrined in the Charter of the United Nations and to the principles of international law and that it has never promulgated or applied laws or any kind of regulation on unilateral coercive measures. The Government indicated that it supports the adoption of urgent and effective measures to prevent the implementation of economic coercive measures, as an instrument of political or economic pressure, that are not authorized by the competent international bodies and that are in contravention of the basic principles of the system of multilateral trade or not in conformity with the principles of international law set out in the Charter of the United Nations.